IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION No: 10169 of 2004

Between:

1 Nellore Fisherwomen Cooperative Society, (Regd.No. F/111/2003),
Nellore Town, Nellore Mandal, Nellore District,
rep. by its President, Smt. P. Aruna.
2 Smt. I. Subhashini, W/o Rama Rao,
Nellore Fisherwomen Coop. Society, Nellore.

..... PETITIONER(S)

AND

1 State of Andhra Pradesh, rep. by its Principal Secretary to Government,
Municipal Administration & Urban Development Dept, Secretariat

Building, Secretariat,
Hyderabad.
2 Commissioner of Fisheries, Matsya Bhavan, Shantinagar,
Masab Tank, Hyderabad.
3 Director of Municipal Administration, Government of Andhra Pradesh,
B.R.K.Rao Buildings, Tank Bund, Hyderabad.
4 Nellore Municipality, Nellore, rep. by its Commissioner.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate Writ, Order or Direction more particularly one in the nature of a Writ of Mandamus declaring Sthe action of the 4th Respondnt in putting the Dycus Road market for public auction along with other markets in Nellore town as illegal and void and consequently declare that the Petitioners are entitled for allotment of Dycus Road market on fixed market fee basis

For the Petitioner:MR.A.RAMALINGESWAR RAO

For the Respondent No.: GP FOR FISHERIES

The Court Made the Following :

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ORAL ORDER:

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This writ petition is filed seeking a Writ of Mandamus declaring the action of the 4th respondent-Nellore Municipality, in seeking to put the Dycus Road Market to public auction along with other markets in Nellore Town, as illegal and void and consequently to declare that the petitioners are entitled for allotment of Dycus Road Market on fixed market fee.

The members of the 1st petitioner-society are claiming to be doing business of selling fish in Dycus Road Municipal Market by paying fixed fee to the 4th respondent-Municipality. The petitioners state that they made a representation to the 3rd respondent on 24-1-2004 for allotment of the market on fixed fee, without putting the rights of collection of market fee to public auction. Pursuant thereto, though the 3rd respondent by his letter dated 20-2-2004, directed the 4th respondent to take necessary action, no action was taken thereon, and in the meanwhile, the financial year came to an end. While the matters stood thus, the Municipal Council of the 4th respondent approved the rates of collection of market fee on 11-6-2004 and decided to auction the rights of collection thereof. In pursuance thereof, the 4th respondent issued the auction notification on 14-6-2004 proposing to auction the rights of collection of market fee in the markets. In the meanwhile, the petitioners state that the 4th respondent submitted their report to the 3rd respondent on 18-6-2004, and pending action of the report, the petitioners state that if the auction as scheduled, is allowed to go on they would suffer loss.

This Court on 22-6-2004 made the following order:

The G.P. and Standing Counsel for the Municipality took notice and seek time for getting instructions.

List the matter after one week. Meanwhile, tenders in pursuance of the auction notice dated 14-6-2004 should be received, but they should not be finalized.

Though on 29-6-2004, the matter was adjourned once again, to enable the Government Pleader to get instructions, today when the matter is called, he did not report any instructions.

Be that as it may, by reason of the interim order passed by this Court on 22-6-2004, the tenders were received, but not finalized. Inasmuch as it is stated that the representation made by the petitioner is pending before the 3rd respondent and that even the 4th respondent has also submitted his report to the 3rd respondent on 18-6-2004, I deem it appropriate to dispose of the writ petition with the following directions:

The 3rd respondent is directed to consider and dispose of the representation of the petitioners for allotment of the market in question on fixed fee, taking into consideration the report said to have been submitted by the 4th respondent on 18-6-2004, in accordance with the guidelines and orders governing thereof, and pass appropriate orders thereon, within a period of one month from the date of receipt of a copy of this order. Till such time, the 4th respondent is directed not to conduct auction for auctioning the right of collection of market fee in pursuance of the auction notification dated 14-6-2004.

The writ petition is accordingly disposed of. No costs.

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(N.V. RAMANA, J)

7th July, 2004.

Mrb/ksr

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 State of Andhra Pradesh, rep. by its Principal Secretary to Government,
Municipal Administration & Urban Development Dept, Secretariat

Building, Secretariat,
Hyderabad.
2 Commissioner of Fisheries, Matsya Bhavan, Shantinagar,
Masab Tank, Hyderabad.
3 Director of Municipal Administration, Government of Andhra Pradesh,
B.R.K.Rao Buildings, Tank Bund, Hyderabad.
4 Nellore Municipality, Nellore, rep. by its Commissioner.

5. Two CCs to G.P. for Fisharies, High Court of A.P., Hyderbad.

6. Two CD copies